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Charles Cottle

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EXAMINER

POLLOCK, GREGORY A

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/597,107	<b>Applicant(s)</b> COTTLE, CHARLES	
	<b>Examiner</b> GREG POLLOCK	<b>Art Unit</b> 3695	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01/22/2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 23,44,48,49,53,55,65,66,68-70,74,76-79,81,83,86 and 87 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23,44,48,49,53,55,65,66,68-70,74,76-79,81,83,86 and 87 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This action is responsive to claims filed 01/22/2009 and Applicant's request for reconsideration of application 10/597107 filed 01/22/2009.

The amendment contains original claims 48, 49, 53, 55, 66, 68-70, 74, 76-79, 81, 86, and 87.

The amendment contains amended claims 23, 44, 65, and 83.

Claims 1-22, 24-43, 45-47, 50-52, 54, 56-64, 67, 71-73, 80, 82, 84, 85, and 88-126 have previously been canceled.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. **Claims 23, 44, 48, 49, 53, 55, 65, 66, 68-70, 74, 76-79, 81, 83, 86, and 87** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant introduces new matter to claims 23, 44, 65, and 83. Applicant amended claims recite the limit (or an equivalent) "wherein the versatile financial transaction is hierarchical". The term hierarchical (or any form of the word hierarchy) is only used once in the original

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disclosure when referring to “a hierarchy of risks” [¶101, line 6]. However, the cited paragraph gives no definition or even an example of how one skilled in the art would interpret a versatile financial transaction which is hierarchical. As such, the amended claims add new matter and are, additionally, inoperable as claimed. Claims 48, 49, 53, 55, 66, 68-70, 74, 76-79, 81, 86, and 87 are rejected based on their respective dependence on independent claims 23, 44, 65, and 83.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. The term ““substantially simultaneously” in **Claims 23, 44, 53, 55, 74, and 76** is a relative term which renders the claim indefinite. The term ““substantially simultaneously” is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. See MPEP § 2173.05(b).
6. **Claims 23, 44, 48, 49, 53, 55, 65, 66, 68-70, 74, 76-79, 81, 83, 86, and 87** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant amended claims recite the limit (or an equivalent) “wherein the versatile financial transaction is hierarchical”. The term hierarchical (or any form of the word hierarchy) is only used once in the original disclosure when referring to “a hierarchy of risks” [¶101, line 6]. However, the

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cited paragraph gives no definition or even an example of how one skilled in the art would interpret a versatile financial transaction which is hierarchical. As such, the interpretation of the amended claims is unclear. Specifically, the basis for the hierarchy is not found in the claims or specification. For the purpose of compact prosecution, the examiner interprets the hierarchy to be any ordering of a financial transaction. Since the term hierarchical adds new matter and is not defined in the claims or specification, the examiner recommends the term be replaced with a functional equivalent which does not add new matter and conveys the intended meaning. For example, if the intended “hierarchy” of subcomponents execution is temporal or based on a set conditional statements, then the claims should be amended to add such limits. The examiner notes that additional limits throughout the claims loosely define a relationship between suborders, but do define an order of execution. As such, the claimed invention is very broad. Claims 48, 49, 53, 55, 66, 68-70, 74, 76-79, 81, 86, and 87 are rejected based on their respective dependence on independent claims 23, 44, 65, and 83.

### ***Claim Rejections - 35 USC § 101***

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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8. Claims 23, 44, 48, 49, 53, 55, 65, 66, 68-70, 74, 76-79, and 81 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
  - a. Independent claims 23, 44, and 65 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non- statutory subject matter. Based on Supreme Court precedent and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. The claims do not recite the use of another statutory class or physical transformation. The claim recites steps involving of generating a versatile financial transaction, but does not recite the use of another class of statutory subject matter (machine, manufacture, or composition of matter) or a transformation of underlying subject matter.
  - b. Dependent claims 48-55 and 66-81 fail to resolve the deficiencies of their respective independent claims 23, 44, and 65. The limitations recited in claims 48-55 and 66-81 disclose additional features of generating a versatile financial transaction recited in respective independent claims 23, 44, and 65, and do not recite the use of another statutory class or provide a physical transformation.

***Claim Interpretation - Intended Use or Intended Results***

9. In determining patentability of an invention over the prior art, all claim limitations have been considered and interpreted as broadly as their terms reasonably allow. See MPEP § 2111.

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In *re Pruter*, 415 F.2d 1393, 1404-05, 162 USPQ 541,550-51 (CCPA 1969). See MPEP § 2111.

All claim limitations have been considered. Additionally, all words in the claims have been considered in judging the patentability of the claims against the prior art. The following language is interpreted as not further limiting the scope of the claimed invention. See MPEP 2106 II C.

Language in a method claim that states only the intended use or intended result, but the expression does not result in a manipulative difference in the steps of the claim. Language in a system claim that states only the intended use or intended result, but does not result in a structural difference between the claimed invention and the prior art. In other words, if the prior art structure is capable of performing the intended use, then it meets the claim. Intended use statements do not structurally distinguish themselves from any prior art which shows the structural element capable of performing the intended use. Claim 83 recites **“In memory, an interaction interface that is invokable by a processor, comprising: instruction signals in the memory, wherein the instruction**

**signals are issuable by the processor to provide: a selection interface mechanism to specify a desired versatile financial transaction that is hierachical having a plurality of subcomponent transactions; an interaction interface mechanism to display subcomponents for the selected versatile financial transaction; an interaction interface mechanism to shift values associated with the selected versatile financial transaction; and a display area to display any of the mechanisms.**

The underlined portion represents intended use statements. As such, the claims 83, 86, and 87 are interpreted as claiming **memory readable by a processor** with the remainder of the claim limits citing intended use of memory readable by a processor. To resolve this deficiency, all instances of intended use should be replaced with affirmative phasing which clearly indicates that the structural component performs the functional limit. For example, claim 83 can be re-written as **“A memory storage containing instructions configured to be executed by a processor, the instructions which, when executed by the processor, cause the performance of a method, comprising:”**. The remainder of the claim should be directed toward the method of generating and displaying a versatile financial transaction. Further, the examiner notes that the claims appear to be directed toward “a selection interface mechanism” which does not fall within a statutory category. The examiner also notes that “instruction signals” are a form of carrier wave, and as such do not fall within a statutory



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category of invention because it is not limited to a process, machine, manufacture, or a composition of matter. Thus, future amendments should avoid the use of the term "signals" in the claims to avoid future 35 USC § 101 rejections.

### ***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 83, 86, and 87 are rejected under 35 U.S.C. 102(e) as being anticipated by Himmelstein (U.S. Patent No. 6993511).

**As per claim 83, 86, and 87**, Himmelstein teaches **memory readable by a processor** (memory operatively connected to a processor [claim 43]. The examiner further notes that Himmelstein teaches the use of a selection interface for financial transactions in the form of screen displays [Figures 5A-5F]) See *Claim Interpretation - Intended Use or Intended Results* section for interpretation of claims 83, 86, and 87.

Note also that Nordlicht et al. (PGPub No. 20050137964), which has been added as prior art made of record and not relied upon is considered pertinent to applicant's disclosure, discloses an interface very similar to that of the present application and should be considered when amending claims.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Examiner's note:** Examiner has pointed out particular references contained in the prior art of record in the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the **entire** reference as potentially teaching all or part of the claimed invention, as well as the content of the passage as taught by the prior art or disclosed by the Examiner.

13. Claims 23, 44, 48, 49, 53, 55, 65, 66, 68-70, 74, 76-79, and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himmelstein (U.S. Patent No. 6993511) in view of Nafeh et al. (PGPub Document No. 20080040257).

**As per claim 23**, Himmelstein teaches a method **of generating a versatile financial transaction** ([column 1, line 14 – column 25, line 67] and [Figures 2-20]. The examiner notes that the present application does not disclose a definition of a “versatile financial transaction”. In [¶7] of the present application, the applicant states that “the disclosed versatile financial mechanism and transaction generator and interface (VFMTGI) provides a simple user interface for an investor to execute and complete multiple financial transactions, simultaneously, as a single transaction” and further in [¶64] the applicant states that “It should be noted that the subcomponent may be any type of financial instrument, financial transaction, financial mechanism, agreement, monetized implement, and/or the like”. The invention of Himmelstein barter financial items [column 2, lines 29-50] which results in multiple subcomponent transactions (multi-order barter selections) [column 7, lines 16-21 and 54-55] [column 8, lines 10-60]. Therefore, the breadth of the claimed invention encompasses the invention of Himmelstein.), **comprising:**

**obtaining an order for a versatile financial transaction** (barter orders are obtained by the matching engine [column 16, lines 13-22] [Figures 4D]), **wherein**

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**the versatile financial transaction is hierarchical, comprised of at least five subcomponent transactions** (multiple subcomponent transactions (multi-order barter selections) [column 3, lines 4-9] [column 7, lines 16-21 and 54-55] [column 8, lines 10-60] [Figures 2, 3, 6, 9A]. Here the examiner notes that the claims state “subcomponent transactions”. The broadest reasonable interpretation of the claim limit is interpreted to mean “any set of transactions” which occur as a result of the received order, as opposed to subcomponents of the order (or slicing of the order into suborders). Additionally, there is no support is the current application for the versatile financial transaction being hierarchical. As such, the broadest interpretation of the claim limit is that there is a required ordering to the subcomponent transactions. The cited prior are describes this feature in the matching of transactions, where multi-order barter selection is required to fill the barterers order.); **processing the order for the subcomponent transactions** (multi-order barter orders are created and matched [column 2, lines 51-53] [column 8, lines 10-39] [Figures 1, 3, 4A-4D, 7A-8 ]); **wherein the subcomponent transactions are interrelated** (To fill a barter order, multi-barter order selection may be used by the system to match order and can be used as an intermediary to create barter orders for financials which it does not currently have possession, [column 18, line 48 – column 23, line 5] and [Figures 3 and 7A-7E]. Here the examiner notes that the “interrelationship” between the subcomponent transactions is not claimed. Therefore, the broadest reasonable interpretation of the claim limit is interpreted to mean “any” interrelationship between subcomponent transactions.), **wherein subcomponent transaction types specified in the order are based on the versatile financial transaction's subcomponent requirements** (a barter order contains conditions, parameters, and financial items (requirements) [column 1, lines 14-36] [column 2, lines 29-50] [column 3, lines 35-41] [column 4, lines 28-45] [column 5, lines 26-43] [column 9, lines 32-49], especially [column 21, line 60 – column 22, line 24] which are used as a basis by which multi-order barter selection (subcomponent transactions of different types) are matched [column 2, lines 51-53] ] [column 8, lines 10-60] [Figures 2, 3, 6, 9A]. Here, the examiner notes that the word “types” is indefinite and the “basis” for subcomponent transaction types being specified in the order as related to the versatile financial transaction's subcomponent requirements is not claimed, and as such has been given its broadest reasonable interpretation.), **wherein subcomponent parameters specified in the order are based on ordering requirements made for the versatile financial transaction** ([column 9, lines 4-31, especially lines 12-13] [column 12, lines 1-15]), **effecting the execution of trades on the order's subcomponents substantially simultaneously from the processed order** (a barter order is received by the matching engine and result in multiple transactions [column 8, lines 10-60] [column 18, line 48 – column 23, line 5] and [Figures 3 and 7A-7E]. Here, the examiner notes that the phrase “substantially simultaneously” has not been defined within the claims or within the present application. As such, the claim limit has been given its broadest reasonable definition.).

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Himmelstein does not teach a method **wherein the subcomponents are obtained simultaneously at a trade executing entity**.

Nafeh et al. teaches a method **wherein the subcomponents are obtained simultaneously at a trade executing entity** (a contract bundle containing an aggregation of financial transactions is received simultaneously as a single publicly traded instrument [¶31-33] [¶39-43] [¶63-70], where multiple examples of the application of the invention are found throughout the disclosure [¶71-461]).

Himmelstein allows for the bartering of any financial instrument [[column 1, lines 14-36], [column 2, lines 29-50], [column 4, lines 28-45], [column 9, lines 32-49], especially [column 21, line 60 – column 22, line 24], where Nafeh et al. qualifies as a financial instrument. The invention of Nafeh et al. discloses the use of a contract bundle, which contains a collection of contracts (orders), where the execution of an individual order is based on the occurrence an event. Therefore, it would have been obvious to one skilled in the art at the time of the invention to have used the invention of Nafeh et al. with that of Himmelstein to achieve the claimed invention. One skilled in the art would be motivated to combine the inventions because Nafeh et al. provides a trading system whereby prospective traders can transact with low transaction overhead using a single data file to including multiple transaction listings which is a feature, that may reduce the number of interactions between a client machine and the network-based transaction facility, and thereby reduce the amount of time that a client machine has to be connected to a network (i.e., be "on-line").

**As per claim 44**, Himmelstein teaches a method of **identifying an underlying financial instrument** (a barter orders is identified and matched [column 2, lines 51-53] [column 8, lines 10-60]); **identifying a versatile financial transaction for the underlying financial instrument** (multiple subcomponent transactions (multi-order barter selections) are identified as a result of a barter order [column 3, lines 4-9] [column 7, lines 16-21 and 54-55] [column 8, lines 10-60] [Figures 2, 3, 6, 9A] [column 2, lines 51-53] and [Figures 1, 3, 4A-4D, 7A-8 ], where the bartered items are any financial [[column 1, lines 14-36], [column 2, lines 29-50], [column 4, lines 28-45], [column 9, lines 32-49], especially [column 21, line 60 – column 22, line 24])).

All of the remaining limits of Claim 44 have been previously addressed in Claim 23, and is therefore rejected using the same prior art and rationale.

**As per claim 48**, the rejection of claim 44 has been addressed.

All of the limits of Claim 48 have been previously addressed in Claim 44, and is therefore rejected using the same prior art and rationale.

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**As per claim 49**, the rejection of claim 44 has been addressed.

Himmelstein teaches a method **wherein at least one of the subcomponents' specified in the order require other subcomponents in the order to execute as specified, otherwise both sets of subcomponents will not execute** (barter orders use multi-order barter selection [column 8, lines 10-60] and can use the system as an intermediary and create barter orders for financials which it does not currently have possession [column 18, line 48 – column 23, line 5] and [Figures 3 and 7A-7E]. Once in possession, the order is matched [column 8, lines 10-60]).

**As per claim 53**, the rejection of claim 44 has been addressed.

All of the limits of Claim 53 have been previously addressed in Claim 23, and is therefore rejected using the same prior art and rationale.

**As per claim 55**, the rejection of claim 44 has been addressed.

All of the limits of Claim 55 have been previously addressed in Claim 44, and is therefore rejected using the same prior art and rationale.

**As per claim 65**, All of the limits of Claim 65 have been previously addressed in Claims 23 and 44, and is therefore rejected using the same prior art and rationale.

**As per claim 66**, the rejection of claim 65 has been addressed.

Himmelstein teaches a method **wherein a complement order is made available to a trading market** (barter orders, which are financials [column 1, lines 14-36], [column 2, lines 29-50], [column 4, lines 28-45], [column 9, lines 32-49], especially [column 21, line 60 – column 22, line 24], are created and matched [column 2, lines 51-53] and [Figures 1, 3, 4A-4D, 7A-8 ] using Himmelstein Options in a virtual market [column 3, line 49 – column 4, line 45]).

**As per claim 68**, the rejection of claim 65 has been addressed.

Himmelstein teaches a method **wherein the subcomponent transactions are over-the-counter options** ([column 1, lines 14-36], [column 2, lines 29-50], [column 4, lines 28-45], [column 9, lines 32-49], especially [column 21, line 60 – column 22, line 24]).

**As per claim 69**, the rejection of claim 65 has been addressed.

All of the limits of Claim 69 have been previously addressed in Claims 23, and is therefore rejected using the same prior art and rationale.

**As per claim 70**, the rejection of claim 65 has been addressed.

All of the limits of Claim 70 have been previously addressed in Claims 49, and is therefore rejected using the same prior art and rationale.

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**As per claim 74**, the rejection of claim 65 has been addressed.

All of the limits of Claim 74 have been previously addressed in Claims 23, and is therefore rejected using the same prior art and rationale.

**As per claim 76**, the rejection of claim 65 has been addressed.

All of the limits of Claim 76 have been previously addressed in Claims 23, and is therefore rejected using the same prior art and rationale.

**As per claim 77**, the rejection of claim 65 has been addressed.

Himmelstein teaches a method **wherein one order is populated for all subcomponents transactions** (multi-order barter transactions [column 3, lines 4-9] and [Figures 2, 6, 9A]).

**As per claim 78**, the rejection of claim 65 has been addressed.

Himmelstein teaches a method **wherein one order is provided for each subcomponent transactions** ([column 7, line 22 – column 13, line 61], [column 18, line 48 – column 23, line 5] [Figures 2, 3, 6, 7A-7E, 9A-9B]).

**As per claim 79**, the rejection of claim 65 has been addressed.

Himmelstein teaches a method **wherein some subcomponents are amalgamated into one order and other orders are provided for each subcomponent** ([column 7, line 22 – column 13, line 61], [column 18, line 48 – column 23, line 5], [Figures 2, 3, 6, 7A-7E, 9A-9B]).

**As per claim 81**, the rejection of claim 65 has been addressed.

Himmelstein teaches a method **wherein the versatile financial transaction is a SlingshotHedge** (bartered items are any financial [[column 1, lines 14-36], [column 2, lines 29-50], [column 4, lines 28-45], [column 9, lines 32-49], especially [column 21, line 60 – column 22, line 24], where use the system as an intermediary allows for interrelated orders.).

### ***Response to Arguments***

14. Applicant's arguments with regards to claims 23, 44, 48, 49, 53, 55, 65, 66, 68-70, 74, 76-79, 81, 83, 86, and 87, filed 01/22/2009 have been fully considered but they are not persuasive.

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15. APPLICANT REMARKS CONCERNING Claim Rejections - 35 USC § 112 (page 12-13): The applicant contends that one of ordinary skill in the art would understand the meaning of the term “substantially simultaneously” as claimed and disclosed in the present application.
16. EXAMINER’S RESPONSE: The Examiner respectfully disagrees with Applicant’s arguments. The term “substantially simultaneously” is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. There is no boundary (maximum and minimum time values) disclosed in the claims or specification to indicate to one of ordinary skill if an elapsed amount of time qualifies as being “substantially simultaneously”. See MPEP § 2173.05(b). Therefore, the examiner maintains the rejection concerning this issue.
17. APPLICANT REMARKS CONCERNING Claim Rejections - 35 USC § 101 (page 11-12): The applicant contends that Claims 23, 44, 48, 49, 53, 55, 65, 66, 68-70, 74, 76-79, and 81 transform underlay subject matter and state that “VFMTGI effects and executes a real world transaction in the marketplace resulting in a transformed, new and heretofore unavailable composite product” and further that claim 83 a physical apparatus.
18. EXAMINER’S RESPONSE: Concerning claim 83, it is noted that this claim was not rejected under 35 USC § 101 in the non-final action of 07/22/2008. Therefore,

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arguments directed at rejections under 35 USC § 101 for claim 83 are moot. The Examiner respectfully disagrees with Applicant's arguments for claims 23, 44, 48, 49, 53, 55, 65, 66, 68-70, 74, 76-79, and 81. These claims are not directed toward a **physical** transformation of underlying subject matter. A transformation of data does not constitute a physical transformation under 35 USC § 101.

19. APPLICANT REMARKS CONCERNING Claim Rejections - 35 USC § 102 (page 13-15): Applicant submits that Himmelstein does not discuss at least a selection interface to specify a desired versatile financial transaction (which are hierarchical, comprising subcomponent transactions), as claimed in independent claim 83. Further stating that there is no notion of subcomponents to a root versatile financial transaction with a given example of a butterfly hedge.
20. EXAMINER'S RESPONSE: The Examiner disagrees with the Applicant's arguments. The "Claim Interpretation - Intended Use or Intended Results" section and prior art rejection have been added/updated to clarify the prior art rejections. Based on the examiners analysis found above, the examiner contends that the prior art of record read on the invention as claimed (emphasis added). In general the claims are very broad. For example, claim 83 attempts to claim features of user interface of the present invention. This is a good starting point, but the claims should be amended to clearly define features of a "versatile financial transaction". Without such clarification the term "versatile



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financial transaction” is broadly interpreted as a “financial transaction” since the present application gives only examples and not a definition of the term.

21. APPLICANT REMARKS CONCERNING Claim Rejections - 35 USC § 103 (page 15-18): Applicant submits that Himmelstein does not set forth the relevant teachings of the prior art relied upon and the difference in the claim over the applied reference. The applicant then specifically states that orders within the Himmelstein are not interrelated and that Nafeh et al. does not remedy the deficiency.
22. EXAMINER’S RESPONSE: The Examiner disagrees with the Applicant's arguments. As stated in the examiner’s response for the 35 USC § 102 argument, the “Claim Interpretation - Intended Use or Intended Results” section and prior art rejection have been added/updated to clarify the prior art rejections. Based on the examiners analysis found above, the examiner contends that the prior art of record read on the invention as claimed (emphasis added). In general the claims are very broad. For example, in claim 23 the boundaries of the “interrelationship” between the subcomponent transactions are not found within the claims. Therefore, based on the broadest reasonable interpretation of the claim limits an “interrelationship” is interpreted to mean “any” interrelationship between subcomponent transactions. Also of note is the use of the phrase “subcomponent transactions”. There is no definition of the phrase in the present application (only examples). Given the broadest reasonable interpretation this

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phrase can be interpreted as to mean “any set of transactions” which occur as a result of the received order or subcomponents of the order (or slicing of the order into suborders). The claims should be amended to clarify their intent.

23. Therefore, in view of the above reasons, Examiner maintains rejections.

### ***Conclusion***

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Nordlicht et al. (PGPub No. 20050137964) – teaches multi-leg transaction are generated using quick entry language (QEL) to generate complex trades including (such as fences, butterfly trades, Christmas tree trades, ect.) using a single trade order.

25. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory

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period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pollock whose telephone number is 571 270-1465. The examiner can normally be reached on 7:30 AM - 4 PM, Mon-Fri Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chuck Kyle can be reached on 571 272-5233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GAP

04/21/2009

/Gregory Pollock/  
Examiner, Art Unit 3695

Gregory A. Pollock

/Thu Thao Havan/  
Primary Examiner, Art Unit 3695